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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	FIL ORG ID: 270606
)	
THE COMMISSIONER OF BUSINESS)	CITATION INCLUDING:
OVERSIGHT,)	(1) DESIST AND REFRAIN ORDER;
)	
Complainant,)	(2) ASSESSMENT OF
)	ADMINISTRATIVE PENALTIES;
v.)	(3) CLAIM FOR ANCILLARY RELIEF
)	
JM SISTER ENTERPRISE, LLC a.k.a.)	(Corp. Code §§ 31402, 31406, 31408)
J M SISTER ENTERPRISE, INC.,)	
)	
Respondent.)	
)	

The Complainant, the Commissioner of Business Oversight (Commissioner), of the Department of Business Oversight (Department), finds the following:

I.
Statement of Facts

1. At all relevant times, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. (JM Sister) was organized on or around August 15, 2013 as a California corporation that converted

1 to a limited liability company on or around April 17, 2014. As of June 1, 2017, JM Sister's powers,
2 rights and privileges are suspended by the California Franchise Tax Board.

3 2. At all relevant times, JM Sister's principal place of business was 23575 Cabot
4 Boulevard, Suite 201-202, Hayward, California 94545-1657.

5 3. At all relevant times, Jiao Li a.k.a. Jaio Li a.k.a. Joey Li was the president and Chief
6 Financial Officer of JM Sister, with a principal place of business at 23575 Cabot Boulevard, Suite
7 201-202, Hayward, California 94545-1657.

8 4. On or around August 20, 2013, JM Sister executed a "Chatime Regional Master
9 Franchise Contract," also referred to as a "Regional Representation Agreement for the Territory of
10 San Francisco Bay Area (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa
11 Clara, Solano and Sonoma), CA" (Agreement) with La Kaffa International Company, Limited (La
12 Kaffa). The Agreement designated JM Sister as the franchisee and La Kaffa as the franchisor.

13 5. The Agreement granted JM Sister the right to sell Chatime products, to own,
14 develop, and operate Chatime franchised stores within the designated territory of the San Francisco
15 Bay Area, and also to recruit, train and authorize sub-franchisees to launch and also operate
16 Chatime franchised stores within said designated territory. The Agreement stated in Article 5 that
17 JM Sister "shall allocate manpower and resources with which to launch and manage the Franchised
18 Stores and recruit, train and assist sub-franchisees to enable them to launch and also run Franchised
19 Stores. Within a period of three (3) years, the FRANCHISEE [JM Sister] shall launch a total of
20 fifteen (15) stores either directly owned or as sub-franchised stores."

21 6. The Agreement constituted a franchise within the meaning of Corporations Code
22 section 31005. The franchise opportunity offered in the Agreement was not registered under the
23 Franchise Investment Law (Corp. Code § 31000 *et seq.*) (FIL) and is not exempt under Chapter 1,
24 beginning at Corporations Code section 31100, of that law.

25 7. On or about March 31, 2014, Chatime USA, LLC (Chatime USA) a Delaware
26 limited liability company, filed an initial franchise registration application and franchise disclosure
27 document with the Commissioner pursuant to Corporations Code section 31111 (2014 Initial FDD).
28

1 8. On May 28, 2014, the Commissioner issued an Order Designating Registration
2 Period for the offer and sale of franchises requested in the 2014 Initial FDD, effective from May 28,
3 2014 through April 20, 2015 (Registered Chatime Offering). The Registered Chatime Offering
4 named Chatime USA as the Franchisor, and included, among other things, a franchise disclosure
5 document and a copy of the franchise agreement to be offered to prospective franchisees.

6 9. From in or around July 2014 through in or around March 2015, JM Sister made
7 unregistered offers and sales of franchises to California entities or individuals without exemption
8 from the registration requirement, in violation of Corporations Code section 31110, as described in
9 further detail below:

10 a. JM Sister offered a California entity/individual (offeree) a document, “JM
11 Sister Enterprise, LLC Chatime Franchise Agreement,” which designated JM Sister as the
12 franchisor and the offeree as the franchisee (JM Sister Franchise Agreement);

13 b. The JM Sister Franchise Agreement was not the Registered Chatime
14 Offering;

15 c. JM Sister was not listed in the Registered Chatime Offering as a person who
16 will offer or sell franchises in California;

17 d. The JM Sister Franchise Agreement stated that JM Sister was the exclusive
18 regional agent and distributor in Northern California of the Chatime trademark and that the offeree
19 was willing to be the franchisee of JM Sister’s chain store of Chatime;

20 e. The JM Sister Franchise Agreement required the offeree to, among other
21 things, use the Chatime trademark following a specific operating pattern for raw material storage,
22 retailer operation, and product manufacturing determined by JM Sister; pay a franchise fee of
23 \$88,000.00 to JM Sister; pay a 5% royalty fee to JM Sister for the use of the Chatime trademark;
24 participate in training programs provided by JM Sister; and buy raw materials from JM Sister.

25 f. The JM Sister Franchise Agreement required JM Sister to, among other
26 things, provide packing materials, operating equipment, and information relating to operation and
27 solve any problems that the offeree would face in order to enter the normal course of business;
28

h. JM Sister did not provide the offeree with a franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the franchise, prior to the offeree's execution of the JM Sister Franchise Agreement.

10. JM Sister entered into a JM Sister Franchise Agreement with at least three offerees in the following locations: (1) San Jose, California, on or around July 3, 2014; (2) Redwood City, California, on or around September 1, 2014; and (3) San Mateo, California, on or around March 3, 2015.

11. The JM Sister Franchise Agreement contained an offer of a franchise within the meaning of Corporations Code section 31005.

12. The offers of franchises by JM Sister in the JM Sister Franchise Agreements were not registered under the FIL and were not exempt from the registration requirement, in violation of Corporations Code section 31110.

13. JM Sister did not provide offerees with any franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the franchise, at least 14 days prior to execution by the offerees, or at least 14 days prior to receiving any consideration, in violation of Corporations Code section 31119, subdivision (a).

II. Citations and Desist and Refrain Orders

14. Corporations Code section 31110 states:

On and after April 15, 1971, it shall be unlawful for any person to offer or sell any franchise in this state unless the offer of the franchise has been registered under this part or exempted under Chapter 1 (commencing with Section 31100) of this part.

15. Corporations Code section 31119, subdivision (a) states:

(a) It is unlawful to sell any franchise in this state that is subject to registration under this law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days

1 prior to the receipt of any consideration, whichever occurs first, a copy of
2 the franchise disclosure document, together with a copy of all proposed
3 agreements relating to the sale of the franchise.

4 16. Corporations Code section 31402 states:

5 If, in the opinion of the commissioner, the offer of any franchise is subject
6 to registration under this law and it is being, or it has been, offered for sale
7 without the offer first being registered, the commissioner may order the
8 franchisor or offeror of that franchise to desist and refrain from the further
9 offer or sale of that franchise unless and until the offer has been duly
10 registered under this law. If, after that order has been made, a request for a
11 hearing is filed in writing within 60 days from the date of service of the
12 order by the person to whom the order was directed, a hearing shall be
13 held in accordance with Chapter 5 (commencing with Section 11500) of
14 Part 1 of Division 3 of Title 2 of the Government Code, and the
15 commissioner shall have all of the powers granted under that chapter.
16 Unless that hearing is commenced within 15 business days after the
17 request is made (or the person affected consents to a later date), the order
18 shall be deemed rescinded.

19 If that person fails to file a written request for a hearing within 60 days
20 from the date of service of the order, the order shall be deemed a final
21 order of the commissioner and shall not be subject to review by any court
22 or agency, notwithstanding Section 31501.

23 17. Corporations Code section 31406 states:

24 (a) If, upon inspection or investigation, based upon a complaint or
25 otherwise, the commissioner has cause to believe that a person is violating
26 any provision of this division or any rule or order promulgated pursuant to
27 this division, the commissioner may issue a citation to that person in
28 writing describing with particularity the basis of the citation. Each citation
may contain an order to desist and refrain and an assessment of an
administrative penalty not to exceed two thousand five hundred dollars
(\$2,500) per violation and shall contain reference to this section, including
the provisions of subdivision (c). All penalties collected under this section
shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and
in addition to, all other administrative, civil, or criminal remedies.

(c) If within 60 days from the receipt of the citation, the person cited fails
to notify the commissioner that the person intends to request a hearing as
described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the commissioner. The application shall include a certified copy of the final order of the commissioner and shall constitute a sufficient showing to warrant the issuance of the judgment and order.

18. Based upon the foregoing findings, the Commissioner is of the opinion that JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. engaged in the offer and sale of franchises in this state that are subject to registration under the Franchise Investment Law without the offers first being registered or exempt, in violation of Corporations Code section 31110. Pursuant to Corporations Code sections 31402, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. is hereby cited and ordered to desist and refrain from the further offer or sale of franchises unless and until the offers have been duly registered under the Franchise Investment Law or are otherwise exempt.

19. Furthermore, based upon the foregoing findings, the Commissioner is of the opinion that JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. sold franchises in this state that were subject to registration under this law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a copy of the franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the franchise, in violation of Corporations Code section 31119, subdivision (a). Pursuant to Corporations Code section 31406, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. is hereby cited and ordered to desist and refrain from the further sale of franchises in this state that are subject to registration under this law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days prior to the receipt of any consideration, whichever

occurs first, a copy of the franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the franchise.

20. These orders are necessary, in the public interest, for the protection of investors and franchisees and consistent with the purposes, policies and provisions of the Franchise Investment Law.

III.

Administrative Penalties

21. Pursuant to Corporations Code section 31406, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. is hereby assessed and ordered to pay an administrative penalty of \$2,500.00 for each of six citations under the Franchise Investment Law, totaling \$15,000.00, as follows:

22. **CITATION A:** In or around July 2014, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. made an unregistered offer and sale of a franchise to an entity or individual in San Jose, California, without exemption from the registration requirement, in violation of Corporations Code section 31110.

23. **CITATION B:** In or around July 2014, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. sold a franchise in San Jose, California that was subject to registration under the Franchise Investment Law without first providing to the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a copy of the franchise disclosure document, together with a copy of all proposed agreements relating to the sale of the franchise, in violation of Corporations Code section 31119, subdivision (a).

24. **CITATION C:** In or around September 2014, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. made an unregistered offer and sale of a franchise to an entity or individual in Redwood City, California without exemption from the registration requirement, in violation of Corporations Code section 31110.

25. **CITATION D:** In or around September 2014, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. sold a franchise in Redwood City, California, that was subject to registration under the Franchise Investment Law without first providing to the prospective franchisee, at least

1 14 days prior to the execution by the prospective franchisee of any binding franchise or other
2 agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a
3 copy of the franchise disclosure document, together with a copy of all proposed agreements relating
4 to the sale of the franchise, in violation of Corporations Code section 31119, subdivision (a).

5 26. **CITATION E:** In or around March 2015, JM Sister Enterprise, LLC a.k.a. J M Sister
6 Enterprise, Inc. made an unregistered offer and sale of a franchise to an entity or individual in San
7 Mateo, California without exemption from the registration requirement, in violation of Corporations
8 Code section 31110.

9 27. **CITATION F:** In or around March 2015, JM Sister Enterprise, LLC a.k.a. J M
10 Sister Enterprise, Inc. sold a franchise in San Mateo, California that was subject to registration
11 under the Franchise Investment Law without first providing to the prospective franchisee, at least
12 14 days prior to the execution by the prospective franchisee of any binding franchise or other
13 agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a
14 copy of the franchise disclosure document, together with a copy of all proposed agreements relating
15 to the sale of the franchise, in violation of Corporations Code section 31119, subdivision (a).

16 28. Pursuant to Corporations Code section 31406, the total administrative penalty of
17 \$15,000.00 shall be due within 60 days of receipt of Citations A-F and shall be made payable to the
18 Commissioner in the form of a cashier's check or Automated Clearing House deposit to the
19 "Department of Business Oversight," and transmitted to the attention of: Accounting – Enforcement
20 Division, California Department of Business Oversight, 1515 K Street, Suite 200, Sacramento,
21 California 95814, contemporaneously with notice of transmittal to Sophia C. Kim at
22 Sophia.Kim@dbo.ca.gov.

23 **IV.**
24 **Order for Ancillary Relief**

25 29. Corporations Code section 31408, subdivision (a) provides:

26 (a) If the commissioner determines it is in the public interest, the
27 commissioner may include in any administrative action brought under this
28 division, including a stop order, a claim for ancillary relief, including, but
not limited to, a claim for rescission, restitution or disgorgement or
damages on behalf of the persons injured by the act or practice
constituting the subject matter of the action, and the administrative law

judge shall have jurisdiction to award additional relief. The person affected may be required to attend remedial education, as directed by the commissioner.

30. From in or around July 2014 through at least in or around March 2015, JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. violated Corporations Code sections 31110 and 31119, subdivision (a) in connection with its offers and sales of franchises to the following California entities and/or individuals:

- (1) Franchisee A (San Jose, California, on or around July 3, 2014);
- (2) Franchisee B (Redwood City, California, on or around September 1, 2014);
- (3) Franchisee C (San Mateo, California, on or around March 3, 2015).

31. Pursuant to Corporations Code section 31408, subdivision (a), the Commissioner hereby orders JM Sister Enterprise, LLC a.k.a. J M Sister Enterprise, Inc. to disgorge any and all franchise fees and royalties it retained in connection with its offers and sales of franchises to Franchisees A, B, and C in violation of Corporations Code sections 31110 and 31119, subdivision (a). Proof of disgorgement shall be submitted within 60 days from receipt of this citation to Sophia C. Kim, Senior Counsel, California Department of Business Oversight, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

32. This order is necessary, in the public interest, for the protection of investors and franchisees and consistent with the purposes, policies and provisions of the Franchise Investment Law.

Dated: January 2, 2018
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division